

UNITED STATES DISTRICT COURT  
DISTRICT OF NEBRASKA

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEBRASKA  
14 FEB 20 PM 1:31  
OFFICE OF THE CLERK

BARBARA J. STEELY and LYLE STEELY,  
Husband and Wife,  
Plaintiffs,

v.

Civil Action No. 8:14 US3

ELAINE J. KREIL,  
Defendant.

**NOTICE OF REMOVAL AND CERTIFICATION**

Pursuant to 16 U.S.C. § 831c-2(b)(2), 28 U.S.C. 1446, and the Federal Rules of Civil Procedure, the Tennessee Valley Authority (TVA) and Defendant Elaine J. Kreil hereby submit for filing this Notice of Removal and Certification, and respectfully show as follows:

1. A civil action, Case No. CI 14 666, has been brought and is now pending in the District Court of Douglas County, Nebraska, a State court, wherein Barbara J. Steely and Lyle Steely are the Plaintiffs and Elaine J. Kreil is the named Defendant. Plaintiffs seek to recover damages based on alleged wrongful acts or omissions of Ms. Kreil.
2. TVA is an executive branch agency and instrumentality of the Government of the United States of America created by and existing pursuant to the TVA Act of 1933, *as amended*, 16 U.S.C. §§ 831-831ee (2012).
3. Ms. Kreil was a TVA employee acting within the scope of her TVA office or employment at the time of the automobile accident out of which the claims being asserted in this action arose. (See Certification Pursuant to 16 U.S.C. § 831c-2(b)(1), Attach. 1.) Accordingly, this action is removable to this Court by TVA pursuant to 16 U.S.C. § 831c-2(b)(2). This action is also removable to this Court by TVA pursuant to 28 U.S.C. § 1442(a)(1) (2012), which provides that a civil action commenced against the United States, any agency thereof, any

officer, or any person acting under that officer within the scope of that federal office or employment may be removed by them to the district court of the United States for the district and division embracing the place wherein the action is pending.

4. Copies of the Complaint in Case No. CI 14 666 and the Summons directed to Ms. Kreil, being all process, pleadings, and orders served upon Ms. Kreil in the action (Attach. 2) are submitted to this Court with this notice for filing.

5. This notice is submitted for filing within 30 days of the receipt by Ms Kreil of the pleadings setting forth the claim upon which this action is based.

6. As shown by the Certificate of Filing and Service submitted herewith (Attach. 3), on February 19, 2014, copies of this notice and said certificate were sent by Federal Express to the Clerk of the District Court of Douglas County, Nebraska, for filing.

7. As shown by the Certificate of Filing and Service submitted herewith (Attach. 3), on February 19, 2014, copies of this notice and certificate were served upon Plaintiffs thereby notifying them of the filing of this notice and the removal of this action.

WHEREFORE, Defendant Elaine J. Kreil and TVA pray that this action be removed from State court to this Court as provided by law.

Respectfully submitted February 19, 2014, by counsel for TVA and Defendant Elaine J. Kreil.

s/James S. Chase  
James S. Chase (pro hac vice motion submitted)  
TVA GENERAL COUNSEL'S OFFICE  
400 West Summit Hill Drive  
Knoxville, Tennessee 37902-1401  
Telephone 865.632.4239  
jschase@tva.gov

Attorney for Tennessee Valley Authority and  
Defendant Elaine J. Kreil

# **Notice of Removal and Certification**

## **Attachment 1**

### **Certificate Pursuant to 16 U.S.C. § 831c-2**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEBRASKA

BARBARA J. STEELY and LYLE STEELY,  
Husband and Wife,  
Plaintiffs,

v.

Civil Action No. \_\_\_\_\_

ELAINE J. KREIL,  
Defendant.

**CERTIFICATION PURSUANT TO 16 U.S.C. § 831c-2**

Pursuant to 16 U.S.C. § 831c-2(b)(1) (2012), the Tennessee Valley Authority (TVA), acting by and through Deputy General Counsel Edwin W. Small, who has been authorized to make and execute this certification on TVA's behalf, hereby certifies that, based on the facts presently known to TVA, Defendant Elaine J. Kreil was an employee of TVA within the meaning of 16 U.S.C. § 831c-2 and was acting within the scope of that employment at the time of the April 13, 2010, accident out of which the claims asserted in this civil action arose.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct. Executed on February 19, 2014, in the United States of America in accordance with 16 U.S.C. § 831c-2(b)(1).

TENNESSEE VALLEY AUTHORITY

By: s/Edwin W. Small  
Edwin W. Small  
Deputy General Counsel  
TVA GENERAL COUNSEL'S OFFICE  
400 West Summit Hill Drive  
Knoxville, Tennessee 37902-1401

## **Notice of Removal and Certification**

### **Attachment 2**

**Summons and Complaint Served on Elaine J. Kreil**

Image ID:  
D00241083D01

**SUMMONS**

Doc. No. 241083

IN THE DISTRICT COURT OF Douglas COUNTY, NEBRASKA  
1701 Farnam  
Omaha NE 68183

Barbara J Steely v. Elaine J Kreil

Case ID: CI 14 666

TO: Elaine J Kreil

You have been sued by the following plaintiff(s):

Barbara J Steely

Lyle Steely

Plaintiff's Attorney: Andrew D Sibbernsen  
Address: 1111 N. 102nd Court, Ste 330  
Omaha, NE 68114

Telephone: (402) 493-7221

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: JANUARY 28, 2014

BY THE COURT:

*John M. Friend*  
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Elaine J Kreil  
311 Pin Oak Drive  
Rockwood, TN 37854

Method of service: Certified Mail

You are directed to make such service within ten days after the date of issue, and file with the court clerk proof of service within ten days after the signed receipt is received or is available electronically, whichever occurs first.





7. Defendant Elaine J. Kreil was negligent in one or more of the following particulars:

- a. In failing to yield the right of way to Plaintiff Barbara J. Steely's vehicle;
- b. In failing to keep a proper lookout;
- c. In failing to keep her vehicle under reasonable control; and
- d. In operating her vehicle at a speed that was greater than necessary and proper under the circumstances.

8. As a direct and proximate result of the negligence of the Defendant, Plaintiff Barbara J. Steely has sustained the following by way of damages:

- a. Injury to her back, legs, knees, and shoulders;
- b. Medical bills in the past, and it is reasonably certain that she will incur additional medical bills in the future;
- c. Physical pain and mental suffering in the past, and it is reasonably certain that she will sustain addition physical and mental pain and suffering in the future;
- d. Lost wages in the past;
- e. Loss of earning capacity;
- e. Permanent injury; and
- f. Permanent disability.

9. At the time of this collision, Plaintiff Barbara J. Steely was 62 years of age and had a life expectancy of 22.31 years.

10. That at the time of this collision, Barbara J. Steely was married to Lyle Steely. As a result of this collision, Lyle Steely has a cause of action for medical bills he has incurred as a




result of this incident, together with the loss of his wife's affection, aid, society, companionship, and support, including the loss of consortium.

WHEREFORE, Plaintiffs pray for judgment against the Defendant for their general and special damages, and for such other relief as may be allowed by the laws of the State of Nebraska.

DATED this 28<sup>th</sup> day of January, 2014.

BARBARA J. STEELY and LYLE STEELY,  
Plaintiffs

By:   
Andrew D. Sibbernson, #22969  
Sibbernson Strigenz & Sibbernson, P.C.  
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Omaha, NE 68114  
(402) 493-7221  
(402) 397-3515 (fax)  
[andy@sibbandstrig.com](mailto:andy@sibbandstrig.com)  
Attorneys for the Plaintiff

# **Notice of Removal and Certification**

## **Attachment 3**

### **Certificate of Filing and Service**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEBRASKA

BARBARA J. STEELY and LYLE STEELY,  
Husband and Wife,  
Plaintiffs,

v.

Civil Action No. \_\_\_\_\_

ELAINE J. KREIL,  
Defendant.

**CERTIFICATE OF FILING AND SERVICE**

I hereby certify that on February 19, 2014, the notice of removal in this action and this certificate were submitted to the State court for filing by sending copies thereof by Federal Express to:

John M. Friend, Esq.  
Douglas County Clerk of the District Court  
300 Hall of Justice  
1701 Farnam Street, 3rd Floor  
Omaha, Nebraska 68183

and were served upon Plaintiffs by mailing copies thereof to:

Andrew D. Sibbernson, Esq.  
Sibbernson Strigenz & Sibbernson, P.C.  
1111 North 102nd Court, Suite 330  
Omaha, Nebraska 68114

s/James S. Chase

James S. Chase  
Senior Attorney  
Telephone 865.632.4239  
jschase@tva.gov

Attorney for Tennessee Valley Authority and  
Defendant Elaine J. Kreil